



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/158719

PRELIMINARY RECITALS

Pursuant to a petition filed June 28, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Portage County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on July 22, 2014, at Stevens Point, Wisconsin.

The issue for determination is whether the agency correctly calculated Petitioner's monthly FoodShare (FS) benefits for June, July, and August 2014.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioners:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Cathy McCorkell

Portage County Department of Human Services
817 Whiting Avenue
Stevens Point, WI 54481-5292

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Portage County.

2. Petitioner has two people in her household, herself and husband, [REDACTED]
3. In June Petitioner received \$45.00 in monthly FS benefits.
4. Effective July 1, 2014 Petitioner received \$51.00 in monthly FS benefits.
5. On June 24, 2014 the agency sent Petitioner a notice stating that her application of BadgerCare+ had been denied, but that she will receive \$45.00 in monthly FS benefits for June, and effective July 1, 2014 she will receive \$51 in monthly FS benefits.
6. On July 1, 2014 the Division of Hearings and Appeals received a request for fair hearing stating that Petitioner's FS benefits were reduced when she is way below the federal guidelines for maximum benefits. (as written in Petitioner's request for fair hearing).

DISCUSSION

Petitioners' main objection to their FS benefits is that it is a federal program and they received the maximum amount of monthly FS benefits when they were living in [REDACTED]. The maximum amount of monthly FS benefits for a family of 2 is \$189. They moved to Wisconsin where they receive significantly less; \$51 per month. They do not understand why they are getting so much less in Wisconsin when this is a federal, not a state, program.

Petitioners fail to recognize that their monthly income has increased significantly. An increase in income often decreases the amount of a person's monthly FS benefits. [REDACTED] receives \$680 per month in social security. Previously Petitioners did not have this income. Mr. [REDACTED] first social security check was in December 2013. Mrs. [REDACTED] is also paid more per hour in Wisconsin, which could cause an additional decrease their monthly FS benefits.

The Wisconsin Division of Hearings and Appeals has the authority to hear this appeal pursuant to Wis. Admin. Code § HA 3.03(1)(d). This code only applies to Wisconsin. Therefore, the only issue in this appeal is whether the Wisconsin agency correctly calculated Petitioners' monthly FS benefits at \$51¹. I have no authority to review [REDACTED]'s determinations of monthly FS benefits.

When calculating an FS allotment gross income must be used. 7 C.F.R. §§ 273.9(a)(1) & 273.10(c) (2010); Foodshare Wisconsin Handbook ["FWH"] 4.3.2. For purposes of FS "income" includes all income from whatever source both earned and unearned. 7 C.F.R. §§ 273.9(b)(1) & (2) (2010); FWH 4.3.1, 4.3.2. & 4.3.4.

Certain specified deductions from gross income are allowed when calculating net income for FS purposes. The only allowed deductions are: standard deduction; earned income deduction; excess medical deduction; dependant care deduction; child support deduction; homeless shelter deduction; excess shelter deduction²; and, standard utility allowance. No other deductions are allowed. 7 C.F.R. § 273.9(d) (2010); FWH 4.6.1.

In determining Petitioners monthly FS benefits, the agency first calculated their monthly gross income. Petitioners' monthly gross income was \$1735.60. Mr. [REDACTED] receives \$680 in monthly social security.

¹ Petitioners' June FS benefits were \$45, but that was because that month was prorated based upon their application date. Were it a full month their FS benefits would have been identical for June, July, and August 2014.

² Shelter expenses include rent/mortgage/condo fees, property taxes, utilities (with some limitations), and insurance. 7 C.F.R. § 273.9(d)(6)(ii) (2010); FWH 4.6.7.1. When calculating utilities the actual amount paid for utilities is not used; instead, a Standard Utility Allowance ["SUA"] is used. 7 C.F.R. § 273.9(d)(6)(iii) (2010); FWH 4.6.7.2. In order for a person to qualify for an excess shelter deduction that person's shelter expenses must be in excess of 50% of their income after all other deductions are allowed. 7 C.F.R. § 273.9(d)(6)(ii) (2010); FWH 4.6.7.1.

Mrs. [REDACTED] works 25 to 29 hours per week making \$9.10 per hour. The agency took the average of 27 hours per week, calculating her weekly income at \$245.70. They then multiplied that weekly income by 4.33³, which resulted in \$1056.51 for her gross monthly income. \$1056.52 plus \$680 is \$1736.52. The agency calculated \$1735.60, which is actually less, and benefits Petitioners. Petitioners did not dispute the agency's calculation of their gross income.

From the gross income the agency deducted the standard deduction of \$152 for a household of two and an earned income deduction of 211.12 for an adjusted income of \$1372.48. From the adjusted gross income the agency took a shelter deduction in the amount of 388.70. Petitioners disagreed with the shelter deduction because their actual shelter expenses are greater than 388.17. In calculating the shelter deduction the agency added Petitioners' rent of \$625 plus the maximum utility deduction of \$450 for a total of \$1075.00. The agency then subtracted 50% of Petitioners' adjusted income (\$686.24) from \$1075 for a total of \$388.70. Therefore, the agency correctly calculated Petitioners' shelter deduction at \$388.70. Finally the agency subtracted the shelter deduction of \$388.70 from the adjusted income of \$1372.48 calculating a net adjusted income of \$983.72. The monthly FS benefits for a family of 2 with an adjusted net income between \$983.37 and \$986.69 is \$51. FWH 8.1.2 at page 9 (last viewed June 2014). Petitioners' monthly income is within that range.

CONCLUSIONS OF LAW

The agency correctly calculated Petitioners' monthly FS benefits of \$51 for July and August 2014. The agency also correctly calculated Petitioners' monthly FS benefits for June prorating the \$51 monthly benefit to \$45 based on Petitioners' application date.

THEREFORE, it is

ORDERED

that the petition for review is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

³ In calculating gross income for FS the agency uses a multiplier of 2.15 for bi-weekly paychecks and 4.33 for weekly paychecks. 7 C.F.R. § 273.10(c)(2)(i). See also FWH 4.6.1.4.

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 31st day of July, 2014

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 31, 2014.

Portage County Department of Human Services
Division of Health Care Access and Accountability